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No. 847

In the Supreme Court of the United States

OCTOBER TERM, 1935

HENRY C. HILL, WARDEN UNITED STATES NORTHEASTERN PENITENTIARY

v.

THE UNITED STATES EX REL. THOMAS M. WAMPLER

ON CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT

BRIEF FOR HENRY C. HILL, WARDEN OF THE UNITED STATES NORTHEASTERN PENITENTIARY

INDEX

	Page
Opinions below	1
Jurisdiction	2
Questions presented	2
Statutes involved	3
Statement	6
Summary of Argument	9
Argument:	
I. Under the practice long followed in Maryland, the provision in the commitment for further imprisonment of the defendant for nonpayment of fine and costs which was inserted by the clerk but had not been included in the sentence orally pronounced by the judge was neither void nor irregular but was valid and regular	10
II. The determination of the United States District Court for Maryland denying the petition to correct the commitment was a final appealable judgment with respect to the validity of such commitment and the writ of habeas corpus may not be used for the purpose of reexamining the issues thereby determined	18
III. Habeas corpus will not lie to discharge a prisoner for mere errors or irregularities in the form of the commitment under which he is held unless such defects render the commitment void in whole or in part for want or excess of jurisdiction on the part of the committing court	20
Conclusion	23

CITATIONS

Cases:	
Ackerson v. *United States*, 15 F. (2d) 268	19
Backus v. *State*, 118 Md. 536	13
Barclay, Ex parte, 153 Fed. 669	11, 12, 13
Boyd v. *Archer*, 42 F. (2d) 43	16, 17
Cogen v. *United States*, 278 U. S. 221	19
Collins v. *Johnston*, 237 U. S. 502	21
Curtis v. *Central Ry.*, Fed. Cas. No. 3,501	16
Detroit Heating & Lighting Co. v. *Kemp*, 182 Fed. 847	16
Dimmick v. *Tompkins*, 194 U. S. 540	20
Frank v. *Mangum*, 237 U. S. 309	21
Frederich, In re, 149 U. S. 70	21

62729—36——1

Cases—Continued. Page

Go-Bart Co. v. *United States*, 282 U. S. 344 19
Haddox v. *Richardson*, 168 Fed. 635 ..... 12, 15
Harlan v. *McGourin*, 218 U. S. 442 21
Jackson, Ex parte, 96 U. S. 727 11
Kaizo v. *Henry*, 211 U. S. 146 21
Koning v. *Bayard*, Fed. Cas. 7,924 16
Lamar, Ex parte, 274 Fed. 160 ..... 21, 22
Norton v. *Rich*, Fed. Cas. No. 10,352 16
Riddle v. *Dyche*, 262 U. S. 333 21
Salinger v. *Loisel*, 265 U. S. 224 20
United States v. *Stevenson*, Fed. Cas. No. 16,395 16
United States v. *Thompson*, 251 U. S. 407 13
United States v. *Valante*, 264 U. S. 563 20
Wales v. *Whitney*, 114 U. S. 564 20

Statutes:

Judicial Code, Sec. 128 (U. S. C., Title 28, Sec. 225) 18, 19
Revised Statutes:
Sec. 722 (U. S. C., Title 28, Sec. 729) 4, 13
Sec. 918 (U. S. C., Title 28, Sec. 731) 5, 16
Sec. 1041 (U. S. C., Title 18, Sec. 569) 3, 11, 12, 17
Sec. 1042 as amended (U. S. C., Title 18, Secs. 641) 3, 11
The Maryland Code, Public General Laws 1924, Article 38, Sec. 1 13

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OPINIONS BELOW

The opinion of the United States District Court for the District of Maryland denying a petition to amend the commitment of the appellee below (hereinafter called the defendant) is reported in 10 F. Supp. 609. The opinion of the United States District Court for the Middle District of Pennsylvania granting the defendant's discharge on habeas corpus is reported in 11 F. Supp. 540.

JURISDICTION

The certificate of the Circuit Court of Appeals for the Third Circuit was filed in this Court March 19, 1936. The jurisdiction of this Court is conferred by Section 239 of the Judicial Code as amended by the Act of February 13, 1925.

QUESTIONS PRESENTED

The questions certified are the following:

1. Was the provision in the commitment for imprisonment for nonpayment of fine and costs which was inserted by the Clerk but not included in the sentence orally pronounced by the judge, (a) void? or (b) merely irregular?

2. Was the determination of the District Court on the petition to correct the commitment, a final judgment conclusive on the issue as to the validity of such commitment until reversed by appropriate proceedings for review?

3. Will habeas corpus lie in one court to correct the commitment of another court which certainly, definitely, and specifically directs the imprisonment of relator for nonpayment of fine and costs on the ground that such provision was inserted by the Clerk, but was not the sentence orally pronounced by the Court?

STATUTES INVOLVED

R. S. 1041 (U. S. C., Title 18, Sec. 569) reads as follows:

> In all criminal or penal causes in which judgment or sentence has been or shall be rendered, imposing the payment of a fine or penalty, whether alone or with any other kind of punishment, the said judgment, so far as the fine or penalty is concerned, may be enforced by execution against the property of the defendant in like manner as judgments in civil cases are enforced. Where the judgment directs that the defendant shall be imprisoned until the fine or penalty imposed is paid, the issue of execution on the judgment shall not operate to discharge the defendant from imprisonment until the amount of the judgment is collected or otherwise paid.

R. S. 1042 as amended (U. S. C., Title 18, Sec. 641) is as follows:

> When a poor convict, sentenced by any court of the United States to be imprisoned and pay a fine, or fine and cost, or to pay a fine, or fine and costs, has been confined in prison thirty days, solely for the nonpayment of such fine, or fine and costs, such convict may make application in writing to any United States commissioner in the district where he is imprisoned setting forth his in-

ability to pay such fine, or fine and costs, and after notice to the district attorney of the United States, who may appear, offer evidence, and be heard, the commissioner shall proceed to hear and determine the matter. If on examination it shall appear to him that such convict is unable to pay such fine, or fine and costs, and that he has not any property exceeding $20 in value, except such as is by law exempt from being taken on execution for debt, the commissioner shall administer to him the following oath: "I do solemnly swear that I have not any property, real or personal, to the amount of $20, except such as is by law exempt from being taken on civil process for debt by the laws of (naming the State where oath is administered); and that I have no property in any way conveyed or concealed, or in any way disposed of, for my future use or benefit. So help me God." Upon taking such oath such convict shall be discharged; and the commissioner shall give to the keeper of the jail a certificate setting forth the facts.

R. S. 722 (U. S. C., Title 28, Sec. 729) provides:

The jurisdiction in civil and criminal matters conferred on the district and circuit courts by the provisions of this Title, and of Title "Civil Rights," and of Title "Crimes," for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and

enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty.

R. S. 918 (U. S. C., Title 28, Sec. 731) provides:

The several circuit and district courts may, from time to time, and in any manner not inconsistent with any law of the United States, or with any rule prescribed by the Supreme Court under the preceding section, make rules and orders directing the returning of writs and processes, the filing of pleadings, the taking of rules, the entering and making up of judgments by default, and other matters in vacation, and otherwise regulate their own practice as may be necessary or convenient for the advancement of justice and the prevention of delays in proceedings.

STATEMENT

The facts as set forth in the certificate are as follows:

Thomas M. Wampler was indicted in the District Court of the United States for the District of Maryland on January 12, 1933, for violation of the income tax laws (U. S. C. A., Title 26, Sec. 2146). The indictment contained two counts, each count charging that Wampler had attempted to evade and defeat the payment of income tax by means of filing false and fraudulent returns for the years 1930 and 1931.

After a long trial he was, on December 12, 1933, convicted by a jury upon both counts of the indictment. On December 28, 1933, the judgment of the Court was pronounced as follows: "Fine five thousand dollars and eighteen months in penitentiary on each count of the indictment, said terms of imprisonment to be computed as beginning this 28th day of December 1933; fines to be cumulative and terms of imprisonment to run concurrently and that traverser pay costs of proceedings."

On the same day the Clerk of the United States District Court for the District of Maryland issued and forwarded to the United States Northeastern Penitentiary, at Lewisburg, Pennsylvania, the commitment in which the judgment of the court was set out, as follows: "That the traverser pay a fine of Five Thousand Dollars and be imprisoned in the United States Northeastern Penitentiary at Lewisburg, Pennsylvania, for eighteen months on each

count of the indictment; said term of imprisonment to be computed as beginning this 28th day of December 1933; the fines to be cumulative and the terms of imprisonment to run concurrently; and that the traverser pay the costs of prosecution; and in default of payment of said fines and costs, he stand further committed until the payment of said fines and costs or until discharged by due process of law."

On April 21, 1935, Thomas M. Wampler filed in the United States District Court for the District of Maryland, in the matter of *United States* vs. *T. Morris Wampler,* No. 17112 Criminal, a petition directed to the Judge of the said Court, in which petition he alleged that the Court did not adjudge or provide or order that he was to stand committed until said fine and costs be paid; that the Clerk of the Court, in preparing the commitment, provided that the consequence of the non-payment of fine and costs shall be commitment in default thereof; and further alleged that the provision for commitment in default of payment of fine and costs was no part of the sentence imposed upon him by the Court. He prayed that "the record and commitment herein may be corrected nunc pro tunc to conform to the sentence as pronounced by the Court and that an order amending the commitment herein nunc pro tunc by striking therefrom the following: 'to stand committed until said fine and costs are paid'; and that the petitioner

may have such further relief to which he may be entitled."

The prayer of this petition was, on April 25, 1935, denied by the sentencing Court, at which time that Court filed an opinion, in which it pointed out that Maryland is a common-law state; that the practice in the State courts is not to include in the judgment of the Court the express direction that the defendant stand committed until the fines are paid; that it has always been the practice in the District Court for the District of Maryland to follow the procedure in the State Court, but that the Clerk of the Court has instructions from the Court to include in the commitment the express provision that the defendant stand committed until the fines are paid, unless otherwise directed by the Court. No appeal was noted by Thomas M. Wampler from the decision of the Court.

Under date of July 23, 1935, Thomas M. Wampler filed in the United States District Court for the Middle District of Pennsylvania, at Scranton, Pennsylvania, a petition for writ of habeas corpus, alleging that his detention at that time, based upon the fact that his actual imprisonment had expired, was unlawful, illegal, and not justified either by the judgment or by the law, and praying that the legality of the said imprisonment be inquired into and declared unlawful and that he be discharged. Under date of July 31, 1935, an order was made by the Judge of the District Court for the Middle District

of Pennsylvania, ordering Thomas M. Wampler discharged from the custody of the Warden of the Northeastern Penitentiary.

From that order an appeal was taken by Henry C. Hill, Warden of the Northeastern Penitentiary, respondent in said habeas corpus proceeding. Pending the appeal, the United States Circuit Court of Appeals for the Third Circuit, feeling that the questions raised were of importance to the administration of Federal criminal law, stated that they should be certified to the Supreme Court of the United States.

SUMMARY OF ARGUMENT

1. The provision in the commitment that the defendant be imprisoned for nonpayment of fine and costs is neither void nor voidable but is valid and regular and in accord with the recognized practice of the State courts in the State of Maryland and with the established and long prevailing practice in the United States District Court for the District of Maryland.

2. The determination of the United States District Court for Maryland denying the defendant's petition to correct his commitment was a final appealable judgment with respect to the validity of such commitment by a court of coordinate competent jurisdiction and should not have been reexamined on habeas corpus by the United States District Court for the Middle District of Pennsylvania.

3. Habeas corpus is not an appropriate remedy to correct errors in the commitment of a coordinate court as to defects or irregularities not amounting to failure or excess of jurisdiction. The provision in the commitment in the case at bar was inserted pursuant to a rule or practice of court in order that the commitment might clearly express the legal effect of the sentence. Under the practice prevailing in the United States District Court for Maryland prior to 1924, the legal effect of a sentence to pay a fine was that the defendant stand committed until the fine be paid without an express direction to that effect in the sentence or the commitment. If such practice was valid, the provision in the commitment inserted pursuant to instructions given the clerk was mere surplusage and did not constitute a want or excess of jurisdiction which could be questioned by habeas corpus.

ARGUMENT

I

UNDER THE PRACTICE LONG FOLLOWED IN MARYLAND, THE PROVISION IN THE COMMITMENT FOR FURTHER IMPRISONMENT OF THE DEFENDANT FOR NONPAYMENT OF FINE AND COSTS WHICH WAS INSERTED BY THE CLERK BUT HAD NOT BEEN INCLUDED IN THE SENTENCE ORALLY PRONOUNCED BY THE JUDGE WAS NEITHER VOID NOR IRREGULAR BUT WAS VALID AND REGULAR

The first question certified assumes that the provision of the commitment directing imprisonment for nonpayment of fine and costs was either void or irregular in that the sentence orally pronounced

did not expressly contain any direction to that effect. The position taken by the defendant in the courts below was that this provision of the commitment was void. As was held in the able opinion of the United States District Court for the District of Maryland in denying the defendant's petition to correct the commitment (10 F. Supp. 609), it is our contention that the commitment was in all respects valid and regular and that under it the defendant may be lawfully detained until his fine is paid or he is discharged pursuant to the provisions of R. S. 1042 (*supra*, pp. 3-4).

The enforcement of judgments and sentences for fines and costs in criminal cases is regulated by R. S. 1041 and 1042. The former (*supra*, p. 3) provides that fines in criminal cases may be collected by execution as in civil suits but that where the judgment directs imprisonment until the fine is paid, execution shall not operate to discharge the defendant from imprisonment until the payment of such fine. R. S. 1042, as amended, provides for the release of poor convicts unable to pay a fine or fine and costs after serving thirty days' imprisonment for nonpayment thereof. Although neither section expressly provides imprisonment for nonpayment of fine or fine and costs, authority for such imprisonment is clearly implied therein and the cases have uniformly recognized the availability of this method of enforcing such judgments. See *Ex parte Jackson*, 96 U. S. 727, 737; *Ex parte Barclay*,

153 Fed. 669 (C. C. D. Me.); *Haddox* v. *Richardson,* 168 Fed. 635, 639 (C. C. A. 4th).

As we understand the position taken by the defendant in the courts below, he does not question this proposition nor does he contend that the two methods of enforcing the judgment for the fine by execution and by imprisonment are alternative or mutually exclusive. It is clear that a fine may be enforced by both methods. R. S. 1041, *supra.* The defendant's contention is that it was discretionary with the court to direct that the defendant stand committed until the fine was satisfied but that as the judgment contained no express provision to that effect, it must be deemed to have been excluded.

We submit that the fallacy which underlies the defendant's position is that it completely ignores the fact that the court which sentenced him did exercise its discretion to require imprisonment for the nonpayment of his fine and costs by virtue of the well-established practice prevailing in the District of Maryland, as will more fully appear from our discussion of that practice.

There is no Federal statute governing the form, rendition, or entry of a criminal judgment and the preparation of the commitment based thereon. While the Conformity Act does not expressly apply in Federal criminal cases, it can hardly be questioned that, in the absence of a Federal statute upon the subject, the District Court of the United

States for the District of Maryland was entitled to resort to the law and practice of that State as the basis for its own procedure. See R. S. 722 (U. S. C., Title 28, Sec. 729); *United States* v. *Thompson*, 251 U. S. 407, 416; *Ex parte Barclay*, 153 Fed. 669, 670 (C. C. D. Me.).

The Maryland Code, Public General Laws 1924, Article 38, Sec. 1, provides that if a person be adjudged guilty of an offense—

> he shall be sentenced to the fine or penalty prescribed by such act of assembly or ordinance and to the costs of his prosecution; and in default of payment thereof he shall be committed to jail until thence discharged by due course of law.

It is clear that under this statute the defendant could be committed for non-payment of fine, even though the sentence contained no such specific direction. *Backus* v. *State*, 118 Md. 536, 538. It was stated by the United States District Court for Maryland (10 F. Supp. 612) that it has not been customary in the Criminal Court of Baltimore for forty years or more for a judge imposing fines in criminal cases expressly to direct imprisonment until they are paid, although this is the invariable consequence of such a sentence, unless the judge otherwise directs at the time.

An identical practice had been adopted by the United States Court for the District of Maryland and followed by it for at least forty years. As

pointed out by the United States District Court for Maryland (10 F. Supp. 610–612) the oral judgment and written commitment rendered in the instant case was in accordance with the long established and invariable practice of that court. The approved practice has been for the judge orally to announce the amount of the fine and the term of imprisonment and for the clerk to make a docket entry reciting such term and fine with no reference in either to imprisonment for nonpayment of the fine. Thus, while it has never been the practice for the judge in imposing a fine in a criminal case in that court either with or without an accompanying specific prison term expressly to direct that the defendant stand committed to prison until the fine be paid or he be discharged in due course of law, it was, nevertheless, the invariable practice, unless the judge specifically otherwise directed, that the defendant be imprisoned for nonpayment and continue committed until he paid the fine or took the requisite oath, and this was true even though the commitment issued by the clerk did not contain an express provision for such imprisonment on account of nonpayment of fine. In March of 1924 the authority of the jailer to detain a prisoner for nonpayment of fine whose commitment did not expressly so provide was questioned. As a result the practice was slightly modified and the clerk of the District Court was instructed to include a provision for imprisonment for nonpay-

ment of fine in all subsequent commitments unless the judge otherwise directed. This has been the invariable practice since that time and has been followed by the clerk with the approval of the judges of the District Court. In the District Court, in accordance with this practice, when a defendant was sentenced to pay a fine and it was not immediately paid he was at once taken into the custody of the Marshal or deputy, one of whom was always present at the sentencing, a practice which appears to have been in general use in the Fourth Circuit (*Haddox* v. *Richardson,* 168 Fed. 635, 639). Thus it is apparent that the court by refraining from making any reference to imprisonment for nonpayment of fine in the instant case exercised its discretion to commit the defendant to imprisonment unless his fine should be paid because it knew that under the existing practice, mutually understood by the judges, the clerk, and the bar generally, the clerk would include in the commitment a direction for such imprisonment. Conversely, had it not intended that imprisonment for nonpayment of the fine be inflicted upon a given defendant, it would have expressly given instructions that such provision be omitted from the commitment.

Furthermore, it was stated by the United States District Court for Maryland (10 F. Supp. 610):

> In the present case it does not appear that execution has ever been issued nor that the

> sentence of the court made any reference thereto, nor that anything occurred from which it could be inferred that it was the intention of the judge in pronouncing the sentence to exclude the usual course of imprisonment for nonpayment of the fine.

That the Federal District Courts have the power to prescribe rules and otherwise regulate their own practice is made clear by R. S. 918 (U. S. C., Title 28, Sec. 731), the only limitation being that such rules and regulations be not inconsistent with any law of the United States. It has been held that such practices need not be reduced to written rule. *Detroit Heating & Lighting Co.* v. *Kemp,* 182 Fed. 847 (C. C. Md.); *United States* v. *Stevenson,* Fed. Cas. No. 16,395 (S. D. N. Y.); *Norton* v. *Rich,* Fed. Cas. No. 10,352 (C. C. Mass.); *Koning* v. *Bayard,* Fed. Cas. No. 7,924 (C. C. S. D. N. Y.); *Curtis* v. *Central Ry.,* Fed. Cas. No. 3,501 (C. C. Ind.).

We submit, therefore, that the instruction by the court to the clerk to include in all commitments, unless directed specifically to the contrary, a provision that the defendant stand committed until the fine be satisfied, was clearly within its rule-making power, particularly where the effect of the instruction was to make the Federal practice comformable to the long-established State practice.

The case of *Boyd* v. *Archer,* 42 F. (2d) 43 (C. C. A. 9th), is relied upon by the defendant to

support his position that the provision in the commitment for imprisonment for nonpayment of fine and costs which was inserted by the clerk but not included in the judge's oral sentence is void. In that case the facts were similar, that is, the judgment contained no direction for further imprisonment, on account of the fine, beyond the actual imprisonment imposed, and the clerk inserted a clause in the commitment stating that the prisoner be further imprisoned until he should have paid the fine or been discharged by law. It was held that under R. S. 1041 it is discretionary with the court to order or not to order a defendant imprisoned for nonpayment of fine; that the trial court did not in that case direct such imprisonment; that therefore the clerk acted without authority, and that that part of the commitment was void. We submit that the *Boyd* case is distinguishable from the case at bar because there is nothing in the Boyd decision to indicate the existence of any such rule or practice in the District Court for the Western District of Washington, where that case arose, as existed in the District Court for Maryland, where the instant case arose. It may be further stated that in that case the position of the court was influenced largely by the concession on the part of the warden that the provision in the commitment was void.

II

THE DETERMINATION OF THE UNITED STATES DISTRICT COURT FOR MARYLAND DENYING THE PETITION TO CORRECT THE COMMITMENT WAS A FINAL APPEALABLE JUDGMENT WITH RESPECT TO THE VALIDITY OF SUCH COMMITMENT AND THE WRIT OF HABEAS CORPUS MAY NOT BE USED FOR THE PURPOSE OF REEXAMINING THE ISSUES THEREBY DETERMINED.

The second question certified is:

> Was the determination of the District Court on the petition to correct the commitment a final judgment conclusive on the issue as to the validity of such commitment until reversed by appropriate proceedings for review.

The proceeding in which was rendered the decision of the District Court denying the defendant's petition to correct his commitment (10 F. Supp. 609) was begun long after the judgment of conviction had become final—approximately one year and four months after his sentence. It is clear under Section 128 of the Judicial Code (U. S. C., Title 28, Sec. 225) that such decision was reviewable on appeal to the Circuit Court of Appeals for the Fourth Circuit. That section provides that:

> The circuit courts of appeal shall have appellate jurisdiction to review by appeal or writ of error final decisions—
>
> First. In the district courts, in all cases save where a direct review of the decision may be had in the Supreme Court under section 238.

Although apparently entitled in the criminal case, it is evident that the petition to correct the commitment cannot be considered as a step in that case. That case had been concluded and the petition to amend the commitment was an independent collateral proceeding growing out of the criminal case. The court's decision refusing to grant the petition to amend the commitment completely disposed of the issues therein presented and therefore was a "final decision" within the meaning of Section 128 of the Judicial Code. Cf. *Cogen* v. *United States,* 278 U. S. 221, 225, 226; *Go-Bart Co.* v. *United States,* 282 U. S. 344, 356; *Ackerson* v. *United States,* 15 F. (2d) 268 (C. C. A. 2d).

Although the decision of the District Court refusing to correct the commitment was an appealable order, no appeal was taken therefrom by the defendant. Instead, the defendant chose to file in the United States District Court for the Middle District of Pennsylvania a petition for a writ of habeas corpus in which he sought again to litigate the very issues which had been determined against him in the District Court for Maryland, except that, at this time, his immediate aim was the attainment of his discharge from imprisonment rather than the amendment of his commitment. The court to which the defendant applied for habeas corpus should have given controlling weight to the prior determination by a court of coordinate competent jurisdiction, particularly where the is-

sues had previously been raised in a direct attack and before the very court which imposed the sentence and from which the commitment issued. Cf. *Salinger* v. *Loisel,* 265 U. S. 224, 231. What the defendant was really attempting to do in the Pennsylvania court was to secure a review of the issues which had already been decided against him in Maryland, thereby converting the writ of habeas corpus into a substitute for an appeal. This Court has often held that this is not a proper function of the writ. *Dimmick* v. *Tompkins,* 194 U. S. 540, 552; *United States* v. *Valante,* 264 U. S. 563, 564; *Wales* v. *Whitney,* 114 U. S. 564, 570–571.

III

HABEAS CORPUS WILL NOT LIE TO DISCHARGE A PRISONER FOR MERE ERRORS OR IRREGULARITIES IN THE FORM OF THE COMMITMENT UNDER WHICH HE IS HELD, UNLESS SUCH DEFECTS RENDER THE COMMITMENT VOID IN WHOLE OR IN PART FOR WANT OR EXCESS OF JURISDICTION ON THE PART OF THE COMMITTING COURT

The third question certified to the Circuit Court of Appeals was as follows:

> Will habeas corpus lie in one court to correct the commitment of another court which certainly, definitely, and specifically directs the imprisonment of relator for nonpayment of fine and costs on the ground that such provision was inserted by the Clerk, but was not the sentence orally pronounced by the Court?

If this Court, in response to the first two questions certified, holds that the commitment in the case at bar was valid and not void or irregular, or that the adjudication on the defendant's petition to correct his commitment should have been given controlling weight in the subsequent habeas corpus proceeding, an answer to the third question may not be required. It is submitted, however, that even if the commitment was irregular or erroneous with respect to the provision for imprisonment for nonpayment of fine, that alone did not warrant the court below in ordering the discharge of the defendant. This Court has held that a habeas corpus proceeding is a collateral attack of a civil nature on the judgment or sentence of another court in a criminal case, *In re Frederich,* 149 U. S. 70, 76, that the record of the sentencing court imports absolute verity, *Riddle* v. *Dyche,* 262 U. S. 333, 336, and that the province of habeas corpus is to call into question only the jurisdiction of the court whose proceedings are under review, not to correct errors in the records of that court. *Collins* v. *Johnston,* 237 U. S. 502, 505; *Frank* v. *Mangum,* 237 U. S. 309, 326; *Harlan* v. *McGourin,* 218 U. S. 442, 445; *Kaiza* v. *Henry,* 211 U. S. 146, 148.

The commitment if not inconsistent with the minutes and docket entries of the court is the official certified record of the judgment and from it must be obtained the intention of the judge as to the sentence he intended to impose. *Ex parte*

Lamar, 274 Fed. 160, 174. The commitment serves to record accurately the terms of the sentence, to advise the prisoner what penalty is imposed and to advise the jailor so that he may keep the prisoner and require the fulfillment of the sentence so imposed. *Ex parte Lamar, supra,* at 172.

Under the practice prevailing in the State courts of Maryland, the defendant sentenced to pay a fine in a criminal case is subject to imprisonment for nonpayment thereof without any direction to that effect in the commitment, and this was formerly the rule in the United States District Court for the District of Maryland (10 F. Supp. 609, 611). As heretofore noted, in March 1924, the clerk of court was instructed in subsequent commitments to insert a direction for imprisonment for nonpayment of fine. In other words, the practical consequences of nonpayment of fine were thereafter to be specifically stated in the commitment. The reason for instructing the clerk in 1924 to include such a provision was to make clear to wardens of Federal penal institutions the exact legal effect of a sentence of fine. Prior to that time wardens receiving prisoners from Maryland, and possibly from other jurisdictions following a similar practice, were compelled to look beyond the commitment for an interpretation of the sentence. When the commitment is regarded in this light, the defendant's attack thereon is without merit. If the practice prevail-

ing for at least 28 years prior to 1924 in the United States Court for the District of Maryland was valid, the extra precaution involved in instructing the clerk to state fully in the commitment the legal effect of the sentence was mere surplusage and is, therefore, hardly subject to the objection that the court exceeded its jurisdiction and that habeas corpus is the proper remedy.

Thus, whether the commitment be regarded as the record of the sentence importing absolute verity on collateral attack, or whether the provision for imprisonment for nonpayment of fine be regarded as surplusage, having in mind the practice prior to 1924, we submit that the third question should be answered in the negative.

CONCLUSION

We respectfully submit that the answer to the first question should be that the provision in the commitment for imprisonment for nonpayment of fine and costs was neither void nor irregular but was valid and regular; that the answer to the second question should be that the determination of the District Court on the petition to correct the commitment was a final appealable judgment with respect to the validity of such commitment and that the writ of habeas corpus may not be used for the purpose of reexamining the issues thereby determined; and that the answer to the third ques-

tion, in the light of the facts and circumstances in the instant case, should be in the negative.

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